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Jury finds occupiers of Oregon wildlife refuge not guilty

The ruling could galvanize more anti-federal actions on public lands.

Tay Wiles | Oct. 28, 2016

On Oct. 27, a jury found seven defendants not guilty of charges filed against them for their part in the 41-day armed occupation (<https://www.hcn.org/articles/oregon-occupation-at-wildlife-refuge>) of Oregon's Malheur National Wildlife Refuge in January and February. Ammon Bundy, Ryan Bundy and five others were charged with conspiracy to prevent federal employees at the refuge from doing their jobs by intimidation, threats or force.

Some of the defendants were also charged with having firearms at a federal facility; the 12-person jury acquitted the occupiers of those charges as well. One defendant, Ken Medenbach, was even acquitted of the charge of stealing federal property, although he admitted in court to using a government vehicle. The verdict is a shock to attorneys and observers on all sides of the high-profile case, which lasted six weeks in U.S. District Court in Portland.



A member of the crowd that gathered outside the federal courthouse in Portland where Ammon and Ryan Bundy and other occupiers of the Malheur National Wildlife Refuge were found not guilty.

Beth Nakamura/The Oregonian

Many critics of the occupation fear the verdict will embolden people in Western states who dislike the federal government to use violence or threats to try to force land agencies to bend to their will. "People are going to get killed because of this verdict because this jury has just given militias the green light to go after federal facilities with rifles," Kieran Suckling, executive director of the Center for Biological Diversity, told the Los Angeles Times (<http://www.latimes.com/nation/nationnow/la-na-oregon-standoff-jury-acquits-20161027-story.html>).

The Bundys and their supporters say federal lands are mismanaged and should be turned over to state or local control. In early January Ammon Bundy led a small group to occupy the Malheur National Wildlife Refuge that lasted 41 days. At its peak, the occupation grew to include a few dozen people (<https://www.hcn.org/articles/whos-who-at-the-oregon-standoff-malheur-bundy>), who lived in and around refuge facilities. They bulldozed new roads in the refuge (<http://www.opb.org/news/series/burns-oregon-standoff-bundy-militia-news-updates/militants-continue-to-operate-bulldozers-move-soil-in-refuge-/>), handled tribal artifacts stored in the refuge headquarters and prevented federal employees from returning to work for weeks, as they argued for the refuge to be turned over to local control. The arrest of the Bundys and several other occupiers in February was a setback to their cause, but the new acquittal gives it a shot in the arm.

[RELATED:<http://www.hcn.org/issues/48.5/the-darkness-at-the-heart-of-malheur>]

Observers are speculating that the prosecution failed to provide enough compelling evidence of the defendants' criminal intent, or that they could have had more success with lesser charges. [A juror who spoke with the Oregonian \(http://www.oregonlive.com/oregon-standoff/2016/10/juror_4_prosecutors_in_oregon.html\)](http://www.oregonlive.com/oregon-standoff/2016/10/juror_4_prosecutors_in_oregon.html) Friday said, "It should be known that all 12 jurors felt that this verdict was a statement regarding the various failures of the prosecution to prove 'conspiracy' in the count itself – and not any form of affirmation of the defense's various beliefs, actions or aspirations."

Tung Yin, a law professor at Lewis & Clark Law School in Portland, Oregon, said the verdict was surprising and may reflect the broader political environment. He drew a parallel to pollsters' failure to identify Donald Trump as a viable candidate during the Republican primaries. Yin said the Malheur verdict "suggests that there's something going on that most of the observers like me must be missing.... The mood of the electorate was some kind of simmering anger that Trump was able to channel. Maybe something like that that is resonating at a level that is subconscious to the legal doctrine."

On Thursday night, supporters of the occupiers celebrated outside the courthouse and welcomed several of the defendants as they exited the building after the verdict was announced. Twitter and Facebook were alight with celebratory statements from members of the so-called Patriot movement around the country.

Yet many rural Westerners had more mixed responses. Tom Collins, a rancher and former commissioner of Clark County, Nevada, calls the occupation leaders "a bunch of radical Mormons left over from the John Birch Society." Collins is friends with the father of Ammon and Ryan Bundy, Cliven Bundy, who in 2014 led an armed standoff with BLM employees at his Nevada ranch after they tried to impound his cattle over unpaid grazing fees. But Collins did not approve of that standoff, and when asked whether he supported the armed occupation of the wildlife refuge, Collins said he appreciated the fact that it had drawn national attention to issues with federal land management. "I will not say that I disagree with the outcome of the jury," he added. "I would not have liked the Tea Party if they had not had been successful and created a revolution."

During the trial this month, defense attorney Matthew Schindler said the Bundys were "protesting the death of rural America" by occupying the refuge. It's true that many Western communities are struggling: Rising costs for small businesses and market consolidation in agriculture threaten rural lifestyles; environmental regulations, growing populations of wild horses, and bureaucratic dysfunction in some federal offices pose challenges for ranchers. But now, on top of those [challenges \(https://www.hcn.org/issues/48.10/federal-lands-grazing\)](https://www.hcn.org/issues/48.10/federal-lands-grazing), misinformation — such as the claim that it's illegal for the federal government to own land in the West — is likely to polarize the issues further.

Critics of the Bundys say their actions have distracted from real rural issues. Land Tawney, the head of the Montana-based Backcountry Hunters and Anglers, released a [statement \(http://www.backcountryhunters.org/backcountry_hunters_anglers_response_to_acquittal_of_bundy_brothers_others_in\)](http://www.backcountryhunters.org/backcountry_hunters_anglers_response_to_acquittal_of_bundy_brothers_others_in) Thursday night saying the organization is "profoundly disappointed in the jury's decision... The jury's decision flies in the face of the basic principle that America's national wildlife refuges and other public lands belong to all Americans."

The verdict may make problem-solving around public lands even more difficult. Earlier this year, ranchers in at least two other states vowed to renounce their federal grazing permits in solidarity with the Bundys and to support the claim that the feds have no place on public lands. (State and federal employees told HCN those ranchers did not follow through with those statements and their grazing fees are, in fact, paid off.) In June, Utahn William Keebler was apprehended by FBI for allegedly attempting to blow up a Bureau of Land Management facility in Arizona; a federal complaint stated Keebler hoped to create a confrontation similar to the 2014 Bundy standoff.

In an all-staff email, Bureau of Land Management Director Neil Kornze wrote: "While we must remain respectful of the jury's decision, we must also be clear-eyed about the potential impacts of yesterday's verdict."

Secretary Sally Jewell also sent an email to all Department of Interior employees: "While we must respect the jury's decision because we believe in the rule of law and our system of justice, I am profoundly disappointed in this outcome and am concerned about its potential implications for our employees and for the effective management of public lands. Deputy Secretary Mike Connor and I visited Malheur National Wildlife Refuge in March to meet with employees impacted by the occupation. It was painful to hear from employees who had devoted entire careers to

public service and were worried about their safety as they carried out their important missions on behalf of the American people.... As we digest the jury's verdict, our foremost priority continues to be the safety, security, and well-being of people who comprise the Federal family and those visiting America's public lands."*

In addition to Ammon and Ryan Bundy, the defendants acquitted Thursday were Shawna Cox, David Fry, Ken Medenbach, Jeff Banta and Neil Wampler. The Bundy brothers, who remain in custody, will next join Cliven Bundy and their brother Dave to be tried for their actions in the 2014 Nevada standoff. Legal experts say there's a chance government prosecutors may consider lessening charges in order to not risk another acquittal. That trial is slated for February 2017 in Las Vegas, Nevada.

This story has been updated to include internal communications from the Department of Interior and Bureau of Land Management that were provided to HCN.

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